

## **FACTS ABOUT CONSTITUTIONAL AMENDMENT #3**

We have been asked about the Patient's Compensation Fund (PCF) Constitutional Amendment that will be on the October 22, 2011 ballot. It is hoped the following will answer those questions.

Constitutional amendment is intended to settle several legal debates that have the potential to hinder the activities of the Louisiana Patient's Compensation Fund (PCF). Basically, the amendment would protect the funds of the PCF from being appropriated and would prevent the state from being liable for the debts of the fund by clarifying that:

- 1) the funds are available only to pay the claims of those injured in medical malpractice;
- 2) the state is not responsible for the liabilities of the PCF; and
- 3) the PCF is not an insurance company and does not pay into LIGA
- 4) no support from the state would be forthcoming unless it is approved by the legislature.

### **What is the PCF?**

The PCF was created to provide affordable, medical malpractice coverage to all private healthcare providers and to provide a certain, stable source of compensation for legitimate injured parties of medical malpractice. PCF funds are 100 percent generated by surcharges paid by doctors, hospitals, nursing homes, nurses, dentists, surgical centers, and many other types of health care providers.

### **Is this a new state program?**

No. The PCF has been around for 37 years.

### **Can the legislature utilize the self-generated funds for state general revenue?**

As it currently stands, yes. Recent court cases suggest that the money paid into the fund by healthcare providers could be swept into the state general fund, because the fund was created by the legislature. If constitutional amendment #3 passes, the legislature would not be able to appropriate the funds for another state purpose. Constitutional amendment #3 ensures that the funds are only used to take care of injured patients and their families.

### **Is the PCF an insurance company?**

No, Constitutional amendment #3 will clarify that the PCF is not an insurance company and never has been. The PCF does not pay Louisiana Insurance Guarantee Association (LIGA) assessments nor is entitled to LIGA protection.

### **Does the state have to pay the claims of the PCF?**

No. Constitutional amendment #3 will clarify that the state does not have an obligation to pay the claims of the PCF now or in the future. This amendment protects both the state and the PCF by ensuring that the state cannot redirect the funds for other purposes and that the PCF cannot require the state use tax dollars to pay its claims.

### **Can the state subsidize the rates of the PCF?**

Yes. Constitutional amendment #3 has a provision that should there be a funding crisis for the PCF and health care providers were leaving the state, the legislature could vote to appropriate funds necessary to lower the premium rates and to ensure the citizens have access to healthcare.